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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

September 15, 1999

VIA HAND DELIVERY

Magalie Roman Salas, Secretary
Federal Communications Commission
445 Twelfth Street, SW
Suite TWA-325
Washington, D.C. 20554

Personal Communications Industry Association

Re: Coalition for Affordable Local and Long Distance Service Plan; CC Docket Nos. 96-45, 96-262, 94-1, 99-249

Dear Ms. Salas:

On behalf of the Personal Communications Industry Association ("PCIA"), I am writing to address the proposal of the Coalition for Affordable Local and Long Distance Service ("Coalition"), submitted on July 29 and August 20, 1999 in the proceedings listed above. PCIA's members, including broadband and narrowband personal communications service ("PCS") providers, paging carriers, and other wireless telecommunications carriers, have a strong interest in the Coalition's plan, both because some of them are potential competitive providers of universal service, and because they are contributors to the universal service fund.

Overview. PCIA supports the Commission's universal service goals and acknowledges the Coalition's significant efforts to forge a consensus on complex universal service and access charge reform issues. PCIA, however, is concerned about the Coalition's proposed funding mechanism for universal service. Thus, PCIA supports the Commission's seeking comment on the Coalition's proposal, but urges the Commission to seek comment on the following related issues at the same time:

- possible inconsistencies between the Coalition's proposal to create a new so-called "interstate access-related fund" and the Commission's proposal to base the high-cost fund on forward-looking costs that are not separated between interstate and intrastate jurisdictions;

- whether a $650 million increase in the universal service fund could distort competition and harm consumers of various telecommunications services, including wireless services;

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- whether alternative policies could better achieve the Commission's universal service goals; and

- whether the resulting universal service system will assure competitive neutrality among different types of carriers and technologies, including wireless carriers.

While the access reform portion of the plan is complex, its overall effect is to recover fixed costs on a flat rate basis and traffic sensitive costs on a usage sensitive basis. This direction is one that makes the access charge structure more consistent with the emerging competitive marketplace. PCIA is concerned, however, about the Coalition's proposal to create a new so-called "interstate access-related" component of the high-cost universal service fund, which would increase the fund by $650 million annually. While PCIA strongly supports one element of this proposal -- the recommendation that all funding be portable and available to competitive entrants 1/ -- PCIA believes that the overall funding proposal raises a number of potential problems, on which the Commission should seek comment.

Apparent Inconsistencies With High-Cost Funding Policy. First, the Coalition's proposal to create a so-called "interstate access-related" fund appears to run counter to the Commission's most recent decisions regarding the structure of the high cost fund, 2/ which in turn were based on the Joint Board's Second Recommended Decision. In the *Seventh Report and Order*, the Commission announced that it was abandoning efforts to segment high-cost support between the interstate and intrastate jurisdictions, represented by the original plan to allocate support based on a 25/75 formula. 3/ By contrast, the Coalition's proposed "interstate access-related" fund is based on a calculation that is specific to the interstate jurisdiction. It is unclear how the plan would prevent double-recovery of subsidy revenues, given the likely overlap between the Coalition's proposed fund and the fund contemplated in the Commission's recent orders in the *Universal Service* proceeding. Moreover, contrary to the Commission's consistent approach to date, the proposed fund appears not to be based on *forward-looking costs*.

1/ *Id.*, Memo. in Support at 30.

2/ *Seventh Report and Order.*

3/ Instead, the Commission decided to set up the high-cost fund based on the total, unseparated, forward-looking costs of service, and the difference between such cost levels in specific areas and a national benchmark. This federal funding mechanism, in combination with complementary state funds, would provide the total "specific, predictable and sufficient" support needed to preserve reasonable rates for universal service in high-cost areas. *Id.*, ¶¶ 47-66.

Rather, it appears to be designed based on the difference between the ILECs' current loop revenues and arbitrarily selected caps on the residential subscriber line charge -- a methodology rooted primarily in *historical costs*. 4/

Alternative Means Could Better Advance Universal Service Goals. Second, the addition of $650 million to the universal service fund may not be the most effective and economically efficient way to achieve the goals of preserving and advancing universal service while promoting a competitive marketplace. The Coalition's proposed "interstate access-related" fund apparently would subsidize residential SLCs that, in the absence of this subsidy would exceed an arbitrary $7.00 cap. But the Coalition's proposal would give no assurance that the residential customers who would benefit from this subsidy have low incomes or even that they are located in high-cost or rural areas. 5/ Thus, the public interest benefits of this subsidy are highly questionable, given that the subsidy is not targeted to recipients that truly need it to preserve and advance universal service. It is certain, however, that the burden of this subsidy would fall on the vast majority of consumers of all telecommunications services, including low-income customers and those living in high-cost and rural areas. The Commission should explore whether there are less distortive means to achieve its goals.

Fund Could Distort Competition And Harm Consumers. Finally, the Coalition's proposed increase to the universal service fund could distort competition and harm consumers. The Commission should seek comment on the extent of such potential harms. As the Commission recently recognized, "Because increased federal support would result in increased contributions and could increase rates for some consumers, we are hesitant to mandate large increases in explicit federal support . . . in the absence of clear evidence that such increases are

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4/ The Coalition's technical formulas defining the fund indicate that the proposed amount of funding is derived based on existing ILEC revenue levels. *See* Letter from John Nakahata, Counsel to the Coalition, to Magalie Roman Salas, Secretary, FCC (Aug. 20, 1999), App. A at 10-11 (defining the minimum funding per line based on "price cap CMT revenue," which in turn is defined [*id.*, App. A at 3] as the per-line revenue an ILEC would be permitted to receive for loop-related rate elements as of December 31, 1999). By contrast, the justification for the $650 million amount based on forward-looking cost suggested by AT&T, *id.*, Memo. in Support at 25-26 & n.63, appears to be a post-hoc rationalization, and is not supported by the other members of the Coalition. *Id.* at 26 n.62.

5/ Since the funding would be keyed to historical ILEC loop revenues rather than forward-looking costs, it is possible that an ILEC in a low-cost area but with historically high revenues could receive subsidies.

necessary either to preserve universal service, or to protect affordable and reasonably comparable rates, consistent with the development of efficient competition." 6/

The Coalition's funding proposal would significantly increase the universal service contributions required from wireless and other carriers that for the most part have never either received nor paid access charges in the past. Unlike ILECs and long-distance carriers, wireless carriers do not have an access charge "offset" to their contributions. Wireless carriers and their customers would shoulder any additional subsidy burden with new dollars.

Thus, PCIA believes that it is crucial that the Commission ensure that universal service funding is targeted to preserve and advance universal service in truly high cost areas. Such funding should *not* be used to maintain artificially low ILEC rates, as the Coalition's proposal appears to do. This would fail to eliminate the implicit subsidies that distort the current marketplace, but would simply force wireless and other carriers' customers to foot a greater portion of the bill. The new fund proposed by the Coalition appears to have the effect of pushing the burden of unjustifiable subsidies from long-distance customers to wireless and other telecommunications customers. Instead of such an approach, the Commission should have the courage to forthrightly rebalance rates to meet economic realities.

Competitive and Technological Neutrality. Finally, PCIA submits that, as the Commission proceeds with reforming the universal service system, it must ensure that wireless carriers have a meaningful opportunity to provide federally-supported universal service. The Commission must give wireless carriers the same rights as wireline carriers to receive universal service funding. To that end, the Commission must preempt any state or other regulations that discriminate against wireless providers or onerously restrict their ability to receive universal service subsidies.

In conclusion, PCIA supports the Coalition's request that the Commission seek comment on the Coalition's overall plan. PCIA believes that many of the proposals in that plan would promote both universal service and competition by eliminating many of the implicit subsidies that currently distort access charges. PCIA also strongly urges the Commission to seek comment on its concerns about the proposed funding mechanism, as set forth above.

6/ *Seventh Report and Order*, ¶ 69.

If you have any questions about this submission, please contact me.

Respectfully submitted,

Angela E. Giancarlo

Angela E. Giancarlo
Director, Federal Regulatory Affairs

ccs: Chairman William E. Kennard
Commissioner Susan Ness
Commissioner Harold Furchtgott-Roth
Commissioner Michael K. Powell
Commissioner Gloria Tristani
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CERTIFICATE OF SERVICE

I, Cecelia Burnett, hereby certify that on this 15th day of September, 1999, copies of the attached filing were served on the parties listed below by hand delivery or first class mail.

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